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International Business Machines Corporation

Attorney for Plaintiff Gregory Bender

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Gregory Bender,

Plaintiff,

v.

International Business Machines Corporation,

Defendant.

Case No. C 09-01249 RMW (PVT)

**STIPULATION AND ORDER
EXTENDING DEADLINE FOR
IBM TO FILE ITS DISCOVERY
MOTION RELATED TO BENDER'S
AMENDED INFRINGEMENT
CONTENTIONS**

Pursuant to Civil L.R. 6-2, Defendant International Business Machines Corporation ("Defendant") and Plaintiff Gregory Bender ("Plaintiff") through their respective counsel, hereby jointly request that the Court change the deadline for Defendant to file its discovery motion challenging Bender's revised infringement contentions, currently scheduled for Wednesday, January 27, 2010, to Tuesday, February 2, 2010.

WHEREAS, pursuant to the November 13, 2009, Order Granting in Part Defendant's Motion to Compel, this Court ordered Plaintiff to submit revised infringement contentions no later than 30 days from the entry of the order and permitted Defendant 14 days from the date the revised infringement contentions were served to file a new motion challenging the infringement contentions. (*See* D.I. 37.)

1 WHEREAS, on stipulated requests from the parties, the Court extended the deadline for
 2 Defendant to file its discovery motion twice, resulting in a deadline of Wednesday, January 27,
 3 2010. (*See* D.I. 39 and D.I. 44.)

4 WHEREAS, after the second stipulated request extending the deadline for the discovery
 5 motion was filed on January 12, 2010, the referral of all discovery matters in this case to Judge
 6 Richard Seeborg was withdrawn and discovery matters were instead referred to Magistrate Judge
 7 Patricia Trumbull on January 14, 2010. (*Compare* D.I. 41 with D.I. 42.)

8 WHEREAS, Magistrate Judge Trumbull holds civil law and motion hearings on Tuesdays,
 9 unlike Judge Seeborg, who holds civil law and motion hearings on Wednesdays.

10 WHEREAS, the parties believe that in the interests of efficiency, the deadline for
 11 Defendant to file its discovery motion challenging Bender's revised infringement contentions
 12 should be moved from Wednesday, January 27, 2010, to Tuesday, February 2, 2010.

13 WHEREAS, the following time modifications have previously occurred in this case:

- 14 • On October 29, 2009, the Court temporarily relieved Defendant of its obligations
 15 to produce technical information under the Federal Rules and its obligations to
 16 serve its Patent L.R. 3-3 and 3-4 disclosures pending the outcome of a further
 17 discovery motion by Defendant of Plaintiff's revised infringement contentions.
 18 (D.I. 30.) The Court has affirmatively left this stay in place since that time. (*See*
 19 D.I. 37, D.I. 39, and 44.)
- 20 • On stipulated requests from the parties, the Court extended the deadline for
 21 Defendant to file its discovery motion pursuant to the Court's Order of November
 22 13, 2009 twice, resulting in a deadline of Wednesday, January 27, 2010. (*See* D.I.
 23 39 and D.I. 44.)
- 24 • On January 14, 2010, on stipulated request from the parties, the Court rescheduled
 25 the parties' Further Case Management from January 15, 2010 to February 26, 2010.
 26 (*See* D.I. 43.)

27 WHEREAS, the requested time modification would have no effect on the schedule for the
 28 case or for the remainder of the briefing for the discovery because under Civil L.R. 7-2, the

1 change would not impact the noticed hearing date for the discovery motion.

2
3 THE PARTIES HEREBY STIPULATE THAT:

4 1. The deadline for Defendant to file its discovery motion challenging Bender's revised
5 infringement contentions, currently scheduled for Wednesday, January 27, 2010, shall be moved
6 to Tuesday, February 2, 2010.

7 2. The parties further stipulate that the Court's order granting Defendant temporary relief
8 from its discovery obligations shall remain in place until the dispute is resolved.

9 Respectfully submitted,

10 Dated: January 26, 2010

Jones Day

11
12 By: /s/ Gregory Lippetz

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23 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

24 DATED: 2/2/10

25 By: 

26 THE HON. PATRICIA TRUMBULL

27 United States Magistrate Judge